BILL NO. S-91-06-18

SPECIAL ORDINANCE NO. S-157-91

AN ORDINANCE approving CONTRACT 91-W-01, INTERIOR & WINDOW REFURBISHING & REPLACEMENTS between KINDER CONSTRUCTION, INC. and the City of Fort Wayne, Indiana, in connection with the Board of Public Works and Safety.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the **CONTRACT 91-W-01, INTERIOR & WINDOW REFURBISHING & REPLACEMENTS** by and between **KINDER CONSTRUCTION, INC.** and the City of Fort Wayne, Indiana, in connection with the Board of Public Works and Safety, for:

> **all trade works required to complete the interior and window refurbishing and replacements including all related works as specified in the contract documents for the Three Rivers Filtration Plant;**

the Contract price is Three Hundred Thirty-Seven Thousand and no/100 Dollars ($337,000.00), all as more particularly set forth in said Contract, which is on file in the Office of the Board of Public Works and Safety and, is by reference incorporated herein, made a part hereof, and is hereby in all things ratified, confirmed and approved. Two (2) copies of said Contract are on file with the Office of the City Clerk and made available for public inspection, according to law.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Councilmember

APPROVED AS TO FORM
AND LEGALITY

J. Timothy McCaulay, ~~City~~ Attorney

OWNER'S COPY

AIA Document A101

Standard Form of Agreement Between Owner and Contractor

where the basis of payment is a

STIPULATED SUM

1987 EDITION

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES; CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION.

The 1987 Edition of AIA Document A201, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

This document has been approved and endorsed by The Associated General Contractors of America.

AGREEMENT

made as of the day of May in the year of Nineteen Hundred and Ninety One

BETWEEN the Owner:
(Name and address)

THE CITY OF FORT WAYNE
ONE MAIN STREET
FORT WAYNE, INDIANA 46802

and the Contractor:
(Name and address)

KINDER CONSTRUCTION, INC.
532 E. HAWTHORNE STREET
P.O. BOX 10517
FORT WAYNE, INDIANA 46852

The Project is:
(Name and location)

INTERIOR & WINDOW REFURBISHING AND REPLACEMENTS
OF THE THREE RIVERS FILTRATION PLANT
GRISWOLD DRIVE
FORT WAYNE, INDIANA 46805

The Architect is:
(Name and address)

GIBSON, TOURNEY, KIM, INCORPORATED
519 TENNESSEE AVENUE, SUITE 300
FORT WAYNE, INDIANA 46805

The Owner and Contractor agree as set forth below.

Copyright 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, © 1987 by The American Institute of Architects, 1735 New York Avenue, N.W., Washington, D.C. 20006. Reproduction of the material herein or substantial quotation of its provisions without written permission of the AIA violates the copyright laws of the United States and will be subject to legal prosecution.

ARTICLE 1
THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

ARTICLE 2
THE WORK OF THIS CONTRACT

The Contractor shall execute the entire Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others, or as follows:

All trade works required to complete the interior and window refurbishing and replacements including all related works as specified in the contract documents.

ARTICLE 3
DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The date of commencement is the date from which the Contract Time of Paragraph 3.2 is measured, and shall be the date of this Agreement, as first written above, unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

The date of commencement will be ten (10) days after the date of this Agreement.

Unless the date of commencement is established by a notice to proceed issued by the Owner, the Contractor shall notify the Owner in writing not less than five days before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

3.2 The Contractor shall achieve Substantial Completion of the entire Work not later than

(Insert the calendar date or number of calendar days after the date of commencement. Also insert any requirements for earlier Substantial Completion of certain portions of the Work, if not stated elsewhere in the Contract Documents.)

The construction shall be substantially complete on or before October 15, 1991.

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to complete on time.)

ARTICLE 4
CONTRACT SUM

4.1 The Owner shall pay the Contractor in current funds for the Contractor's performance of the Contract the Contract Sum of Three Hundred Thirty Seven Thousand Dollars and 00/100 Dollars ($ 337,000.00), subject to additions and deductions as provided in the Contract Documents.

4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date until which that amount is valid.)

BASE BID.....$337,000.00

TOTAL CONTRACT AMOUNT.....$337,000.00

No Alternate Bids are accepted.

4.3 Unit prices, if any, are as follows:

1) Cost to remove on existing steel window muntin and replace with new.....$70.00 each

2) Remove and clean one existing foot of brick joint and installation of new cement mortar.....$30.00 per foot

ARTICLE 5
PROGRESS PAYMENTS

5.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

5.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

The Contractor shall submit an Application for Payment indicating the percentage of completion of each portion of the Work, no more often than every thirty (30) days for work performed and accepted. The Application for Payment shall be in triplicate and shall be properly executed on AIA Document G702, G703, and the City Utilties Claim Form, itemized in the same order as the Schedule of Values. Upon receipt of the Application, the Architect will process the Application and release it to the Owner for payment within two (2) weeks of receipt, unless the percentage of Work is not complete in the Architect's opinion. Upon receipt of the Application from the Architect, the Owner will process the payment within thirty (30) days of receipt, retaining five percent (5%) of the Application as retainage.

5.3 Provided an Application for Payment is received by the Architect not later than the (not applicable) day of a month, the Owner shall make payment to the Contractor not later than the day of the month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than days after the Architect receives the Application for Payment.

5.4 Each Application for Payment shall be based upon the Schedule of Values submitted by the Contractor in accordance with the Contract Documents. The Schedule of Values shall allocate the entire Contract Sum among the various portions of the Work and be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This Schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

5.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

5.6 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

5.6.1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the Schedule of Values, less retainage of five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Subparagraph 7.3.7 of the General Conditions even though the Contract Sum has not yet been adjusted by Change Order;

5.6.2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of five percent (5 %);

5.6.3 Subtract the aggregate of previous payments made by the Owner; and

5.6.4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Paragraph 9.5 of the General Conditions.

5.7 The progress payment amount determined in accordance with Paragraph 5.6 shall be further modified under the following circumstances:

5.7.1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to (not applicable) percent (%) of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work and unsettled claims; and

5.7.2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Subparagraph 9.10.3 of the General Conditions.

5.8 Reduction or limitation of retainage, if any, shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Subparagraphs 5.6.1 and 5.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

Not Applicable.

ARTICLE 6
FINAL PAYMENT

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when (1) the Contract has been fully performed by the Contractor except for the Contractor's responsibility to correct nonconforming Work as provided in Subparagraph 12.2.2 of the General Conditions and to satisfy other requirements, if any, which necessarily survive final payment; and (2) a final Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

See Specifications, Supplementary Conditions, Article 9.10.2.

ARTICLE 7
MISCELLANEOUS PROVISIONS

7.1 Where reference is made in this Agreement to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

7.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

Not Applicable.

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

7.3 Other provisions:

Not Applicable.

ARTICLE 8
TERMINATION OR SUSPENSION

8.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of the General Conditions.

8.2 The Work may be suspended by the Owner as provided in Article 14 of the General Conditions.

ARTICLE 9
ENUMERATION OF CONTRACT DOCUMENTS

9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

9.1.1 The Agreement is this executed Standard Form of Agreement Between Owner and Contractor, AIA Document A101, 1987 Edition.

9.1.2 The General Conditions are the General Conditions of the Contract for Construction, AIA Document A201, 1987 Edition.

9.1.3 The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated March 1991, and are as follows:

Document	Title	Pages
Specifications	Wage Rate	WS-1 & WS-2
Specifications	General Provisions City Standard	1-6
Specifications	General Conditions AIA Document A201	1-24
Specifications	Supplementary Conditions	1-12

9.1.4 The Specifications are those contained in the Project Manual dated as in Subparagraph 9.1.3, and are as follows:

(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Pages
Division 1	General Requirements	1-7
Division 2	Site Work	1
Division 4	Masonry	1-2
Division 5	Metals	1-3
Division 7	Thermal & Moisture Protection	1-2
Division 8	Doors & Windows	1-5
Division 9	Finishes	1-6
Division 15	Mechanical	1
Division 16	Electrical	1

9.1.5 The Drawings are as follows, and are dated March 1991 unless a different date is shown below:

(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date

DRAWING INDEX

SHEET NO.		SHEET NO.	
	Title Sheet		
	Index Page		
SM-1	Schedule of Work		
SM-2	Schedule of Work		
SM-3	Schedule of Work		
1	Master Building Plan & Building Index	18	Main Floor Plan of Building No. 10 & 11
2	Overall Elevations	19	Intermediate Level Plan of Building No. 11
3	East and West Elevations of Building No. 7, 8 & 9	20	Framing Plan of Building No. 10 & 11 and West Interior Wall of Building No. 10
4	East Elevation of Building No. 6 and Monitor Plan of Building No. 2 & 4	21	Upper Level Floor Plan of Building No. 11
5	North and South Elevations of Building No. 2 & 4	22	Elevation and Vertical Section of Window, W-1
6	East Elevation of Building No. 1	23	Interior Elevation Looking South and Cross Section of Building No. 2 & 4, Building No. 3 Similar
7	South Elevation of Building No. 1	24	Vertical Section of Existing Windows, W-26 Location W-16, W-17, W-21, W-23, W-24, W-25, W-26
8	West Elevation of Building No. 1	25	Longitudinal Section Through Building No. 10 & 11 and Cross Section of Building No. 11, W-16 Elevation
9	North Elevation of Building No. 1	26	Enlarged Wall Section of Building No. 2 & 4
10	East Elevation of Building No. 10 & 11 and North Elevation of Building No. 11	27	Window Replacement Elevations of W-1 & W-7
11	West Elevation of Building No. 10 & 11 and South Elevation of Building No. 11	28	Window Replacement Elevations of W-11, W-14, W-3, W-4 & W-5
12	Partial South Elevation of Building No. 10 & 11 and South Section Elevation of Building No. 8	29	Window Replacement Elevations of W-12 & W-13
13	Plan Section of Building No. 1	30	Replacement Window Details
14	Floor Plans of Building No. 2 & 4	31	Replacement Window Details
15	Floor Plan of Building No. 6	32	Replacement Window Details
16	Floor Plans of Building No. 5 & 6	33	New Fan and Louver Details and Specifications W-13 Windows in the Boiler Room
17	Floor Plans of Building No. 7, 8 & 9	34	New Fan and Louver Details and Specifications W-13 Windows in the Boiler Room

9.1.6 The Addenda, if any, are as follows:

Number	Date	Pages
No. 1	March 18, 1991	1
No. 2	March 20, 1991	2 + Drawing AD-1

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

9.1.7 Other documents, if any, forming part of the Contract Documents are as follows:

(List here any additional documents which are intended to form part of the Contract Documents. The General Conditions provide that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

ARTICLE 10 - CONTRACTOR'S WAIVER OF RIGHT OF MECHANIC'S LIENS

Contractor for itself and for all other persons or corporations who may perform labor or furnish materials, supplies, tools or equipment for the construction of the improvements described herein, or for work incidental to such construction, hereby waive and relinquish all rights to claim or file notice of a mechanic's lien upon said real estate or any part thereof or upon any buildings or improvements thereon. Contractor for itself and for all subcontractors, journeymen, materialmen, mechanics and laborers, and all other persons, firms and corporations performing labor and furnishing material or machinery for the construction of said building and appurtenances, do hereby agree that no lien or notice of lien shall in any event or any circumstance whatsoever, attach to, or be claimed or filed against, said building and appurtenances, or any part thereof, or against the real estate on which the same is located, or any part thereof, and in the event the Contractor should fail to obtain the release of any liens filed, the Contractor shall indemnify, save and hold harmless the Owners from any expenses incurred in obtaining the release of any such lien, including attorney fees.

The legal description for the Three Rivers Filtration Plant, City of Fort Wayne, Indiana, is attached and shown as Exhibit "A".

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.

OWNER: THE BOARD OF PUBLIC WORKS & SAFETY

Charles E. Layton

E. Sharon Banks, Chief of Staff

Douglas M. Lehman
Director of Administration & Finance

ATTEST: Patricia J. Crick
Patricia J. Crick, Clerk

CONTRACTOR: KINDER CONSTRUCTION, INC.

Mark Southwood, Vice President

LEGAL DESCRIPTION
FOR
3 RIVERS FILTRATION PLANT
CITY OF FORT WAYNE, INDIANA

Part of Lot 4 of Wells reserve located at the confluence of the St. Marys and the St. Joseph Rivers in Township 30 North, Range 12 East, Allen County, Indiana more particularly described as follows:

COMMENCING at the intersection of the easterly right-of-way line of Spy Run Avenue and the northerly bank of the St. Marys River, thence easterly along the northerly bank of the St. Marys River to the intersection of said northerly bank with the southerly extension of the easterly right-of-way line of a 20 ft. alley located on the east side of Baltes and Romys amended addition, said intersection point being the Point of Beginning; thence northerly along said easterly alley right-of-way line to its intersection point with the easterly extension of the southerly right-of-way line of Baltes Avenue (see City of Fort Wayne Street Engineering Right-of-Way Map No. M-10); thence northwesterly along the northeasterly right-of-way line of Baltes Avenue to the north right-of-way line of Baltes Avenue (see said Map No. M-10); thence westerly along the northerly right-of-way line of Baltes Avenue to its intersection with the easterly right-of-way line of Spy Run Avenue; thence northerly along the easterly right-of-way line of Spy Run Avenue to its intersection point with the south line of Lot No. 3 of Romy and Martins Addition; thence east along the south line of said Lot No. 3 to the southeast corner of said Lot 3; thence south along the southerly extension of the east line of Lot 3 (said east line of Lot 3 also being the west line of a 12 ft. alley) a distance of 12 ft. to the south line of an

east-west alley located along the south line of Lots 4 thru 7 of Romy and Martins Addition; thence east along the south line of said east-west alley (said east-west alley being 12 ft. wide and also being located along the south line of Lots 6 thru 26 of Baltes and Romys Addition) and its easterly extension to the west bank of the St. Joseph River; thence southerly along the meanderings of the west bank of the St. Joseph River, an approximate distance of 950 ft. to its intersection with the northerly bank of the St. Marys River at the confluence of these rivers; thence westerly along the meanderings of the north bank of the St. Marys River an approximate distance of 1,100 feet to the point of beginning containing 22 acres more or less.

Prepared by: Mark L. Gensic, P.E. & L.S.
Registered Land Surveyor No. 50409

Certified correct this 2nd day of MAY, 1991.

Mark L. Gensic

Mark L. Gensic, P.E. & L.S.

LOUIS GENSIC REGISTERED No. 50409 STATE OF INDIANA LAND SURVEYOR

Tabulation of Bids
Three Rivers Filtration Plant
Interior & Window Refurbishing
Wednesday, March 27, 1991 @ 9:00 A.M.
GTK Project #961/City Contract No. 91-W-01

Gibson Tourney Kim, Incorporated
519 Tennessee Avenue, Suite 300
Fort Wayne, Indiana 46805
(219) 424-4950

B I D D E R S	CROSBY	HAWK	KINDER	LENGACHER	SCHENKEL	SIMERMAN
BASE BID	$399,480	$444,894	$337,000	$387,500	$470,000	$395,600
ALT. BID NO. 1	+93,500	+95,500	+83,334	+96,167	+103,000	+109,800
ALT. BID NO. 2	+12,500	+12,500	+10,976	+12,826	+19,000	+19,700
ALT. BID NO. 3	+32,400	+32,500	+26,910	+33,279	+29,000	+29,800
ALT. BID NO. 4	+2,500	+925	+7,180	+5,280	+500	-200

Read the first time in full and on motion by Burns, seconded by Judd, and duly adopted, read the second time by title and referred to the Committee on City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock ____.M.,E.S.T.

DATED: 6-11-91

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Burns, seconded by Judd, and duly adopted, placed on its passage. PASSED [LOST] by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	8			1
BRADBURY	✓			
BURNS	✓			
EDMONDS	✓			
GiaQUINTA				✓
HENRY	✓			
LONG	✓			
REDD	✓			
SCHMIDT	✓			
TALARICO	✓			

DATED: 6-25-91

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ANNEXATION)~~ ~~(APPROPRIATION)~~ (GENERAL) ~~(SPECIAL)~~ ~~(ZONING MAP)~~ ORDINANCE ~~RESOLUTION~~ NO. S-157-91 on the 25th day of June, 19 91,

ATTEST
Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

SEAL
Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 26th day of June, 19 91, at the hour of 1:45 o'clock P.M.,E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 2nd day of July, 19 91, at the hour of 3:30 o'clock P.M.,E.S.T.

PAUL HELMKE, MAYOR

Admn. Appr.

TITLE OF ORDINANCE: Contract 91-W-01, Interior & Window Refurbishing & Replacements

DEPARTMENT REQUESTING ORDINANCE: Board of Public Works

SYNOPSIS OF ORDINANCE: Contract 91-W-01 is for all trade works required to complete the interior and window refurbishing and replacements including all related works as specified in the contract documents for the Three Rivers Filtration Plant. Kinder Construction Company is the contractor.

EFFECT OF PASSAGE: Improved window conditions at Three Rivers Filtration Plant.

EFFECT OF NON PASSAGE: S-91-06-18

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGs) $337,000.00

ASSIGNED TO COMMITTEE:

BILL NO. S-91-06-18

REPORT OF THE COMMITTEE ON CITY UTILITIES

PAUL M. BURNS, CHAIRMAN
CHARLES B. REDD, VICE CHAIRMAN
EDMONDS, LONG, SCHMIDT

WE, YOUR COMMITTEE ON CITY UTILITIES TO WHOM WAS REFERRED AN (ORDINANCE) ~~(RESOLUTION)~~ approving CONTRACT 91-W-01, INTERIOR & WINDOW REFURBISHING & REPLACEMENTS between KINDER CONSTRUCTION, INC. and the City of Fort Wayne, Indiana, in connection with the Board of Public Works and Safety

HAVE HAD SAID (ORDINANCE) ~~(RESOLUTION)~~ UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE) ~~(RESOLUTION)~~

DO PASS	DO NOT PASS	ABSTAIN	NO REC

DATED: 6-25-91.

Sandra E. Kennedy
City Clerk